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In re Application of
Chapus et al.
Application No. 09/780,418
Filed: February 12, 2001
Attorney Docket No. PET-1919

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OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.55(c), filed October 22, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) and (f) for benefit of the filing date of French Application No. 00/01.811 filed February 11, 2000, and French application no. 00/02.809 filed March 2, 2000. This is also a decision on the petition under 37 CFR 1.182 to expedite consideration of the petition under 37 CFR 1.55(c).

The petition under 37 CFR 1.55(c) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign applications, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on Monday, February 12, 2001, which is after November 29, 2000 and within 12 months of February 11, 2000 (the filing date of the foreign application to which benefit is now being claimed). On October 22, 2004, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) and (f) is granted.

A filing receipt accompanies this decision on petition.

The fee of \$1,370 for the petition under 37 CFR 1.55(c) and the fee of \$130 for the petition under 37 CFR 1.182 will be charged to petitioner's deposit account.

The Office of Publications will be informed of the instant decision.

Inquiries directly pertaining to this matter may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt